

associated with each of the stores as comprising communication via the Internet and via direct modem-to-modem connection.

However, to remove any possible confusion Applicants have amended Claim 9 to separately claim the downloading step of step (g) as described in Claim 1 and have added new Claim 32 which separately claims the uploading step of step (i). Accordingly, Applicants submit that the Examiner's basis for objection has been overcome and respectfully requests that the stated objection be withdrawn.

Claims 1, 3, 7, 16, 18, 22, 26 and 30 have been rejected under 35 U.S.C. §102(b) as being anticipated by Cupps, U.S. Patent No. 5,991,739. Applicants respectfully traverse the Examiner's substantive bases for rejection of the claims.

Cupps '739 discloses an Internet online order method and apparatus that pertains to an online ordering machine that manages the distribution of home delivered products using a computer system including customer computers connected to at least one server computer system that executes the online ordering machine. (Cupps '739 col. 2 ll. 19-24.) The invention of Cupps '739 is disclosed as relating to the ordering of food items from restaurants for delivery or pick-up. (Cupps '739 col. 2 ll. 39-41.)

The system disclosed in Cupps '739 provides a customer access to dynamically generated restaurant menus via their computer by communicating with an online ordering machine comprising a Web server. The online ordering machine identifies restaurants whose delivery area is compatible within the customer's location. The customer uses his/her computer to place an order with the Web server. Once the customer places an order, the online order machine converts the order into voice instructions which are transmitted to the restaurant through an ordinary telephone call. (Cupps '739 col. 2 ll. 39-63.) As specifically disclosed, a voice recognition system within the Web server receives the order as a text file and converts the order into a voice file of recorded speech segments. The system places a call to the restaurant and transmits the voice file which is played to the human order taker at the restaurant who

answers the telephone call. The order taker hears in synthesized human speech and can respond to the system with DTMF tones to, for example, acknowledge the order. (Cupps '739 col. 2 l. 63 - col. 3 l. 6.) Alternatively, the Web server can transmit a facsimile to the restaurant to provide a printed order for receipt by the human order taker. (Cupps '739 col. 4 ll. 23-27.)

An important aspect of Cupps is the method by which the orders are conveyed to the vendors/restaurants. As disclosed, orders are communicated to the restaurants by placing a telephone call which is answered by a human being or by sending a facsimile which is read by a human being. In each case, a human order taker at the restaurant receives and, in turn, processes the order – no different than if the customer called the restaurant, faxed an order form or placed an order in person at the restaurant.

The cited reference omits a critical claimed feature of Applicants' invention and thus fails to accomplish the complete and patently distinct purpose of Applicants' invention. While the cited reference is intended to provide convenient placing of an order for products by using a computer terminal to transmit an order to a vendor or restaurant, it fails to address or in any way improve upon the order taking process which must by design take place at the vendor's location.

Specifically, Applicants' invention as claimed includes the claimed step of downloading an order directly into the computer system of a selected store bypassing the conventional order-taking process. Applicants' invention as disclosed and claimed permits an order to be directly downloaded into a vendor or a restaurant's computer system, such as a point-of-sale computer based system used to take, track and process orders within a business. Applicants' invention is patentably distinct from the disclosure of Cupps in that no human is required to answer an incoming telephone call or find and read an incoming facsimile to learn that a customer wishes to place order. Applicants' invention does away with having human order takers, it removes any language barriers which may exist between customers and store employees, it minimizes the

occurrence of human error and mistakes in the order entry process, it minimizes delay in processing orders and reduces labor and the associated expense.

Applicants' Claim 1 expressly requires in step (g) and (h) that the order received by the web site computer is downloaded to the selected store and in particular that it is downloaded directly into the computer system of the selected store. Applicants further note that independent Claims 16 also includes these very same claimed steps which are patentably distinct from the disclosure of Cupps. Applicants' Claim 26 is further directed to a system for sending an order received on the Internet to a selected store of a chain of stores and likewise describes and claims a system section for downloading a customer order directly into the computer system of a selected store bypassing the order-taking process of the selected store.

Applicants acknowledge that Cupps '739 at col. 12 ll. 4-10 states: "In addition, the present invention is not constrained to transmitting a customer's order to the vendor through the interactive voice recognition system as described above. A modem connection can be established which will enable communication between the online ordering machine and the vendor through the Internet thereby allowing email communication, web communication, and the like."

Applicant respectfully submits that an attempt to equate this vague incantation which lacks any further support in the specification with Applicants' claimed invention, the independent claims of which each include the limitation of downloading an order received directly into the computer system of the selected store is improper. "Email communication" as invoked by Cupps at col. 12 ll. 4-10 still requires human intervention to process ... specifically to read the email, interpret the message and input the order into a point of sale system. Nowhere in Cupps is there any discussion of a computerized point of sale system, let alone the ability to automatically populate the system with data or otherwise configure an order without human intervention. Further, reference by Cupps to "web communication and the like" is indeed just that – reference to a method of communication that lacks any disclosure or specificity as to what

is being communicated or for what purpose. At best, this phrase suggests that orders can be transmitted by the Cupps server/online order machine into the store for receipt and processing by a human using means other than the public switched telephone network, such as for example by Voice Over IP which nevertheless still conveys voice to a human operator. In short, Cupps does not disclose bypassing the manual order entry process executed at the store level.

Applicants further respectfully submit that Cupps '739 fails to disclose or teach or even suggest any method or device for directly conveying an order into a computer system maintained and operated by the store. While the cited reference reveals a system that permits a customer to place an order with a server using a customer computer connectable to that server (online order machine), the server/online order machine is not a order processing system operated by the store. The system of Cupps relies solely on human interaction to accept an order transmitted to the store by the server/online order machine – which merely mimics the typical customer action in placing orders – but not the processing which takes place within the store.

Applicants' system describes the further step which controls the downloading of an order directly into the store computer after it is received by the server – without requiring human intervention. In short, the ability to download an order directly into the store's computer system distinguishes Applicants' invention from of the cited reference.

In view of the foregoing, Applicants respectfully request that the Examiner's rejection of Claims 1, 16 and 26 be withdrawn.

Claims 2-14, 17-24 and 27-30 also stand rejected as anticipated by Cupps '739. Because Claims 2-14, 17-24 and 27-30 depend from independent Claim 1, 16 or 26, and Claims 1, 16 and 26 are now believed to be allowable, Applicants respectfully request that the Examiner's rejection of Claims 2-14, 17-24 and 27-30 be withdrawn as well.

Claims 15, 25, and 31 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Cupps, U.S. Patent No. 5,991,739. Applicants respectfully traverse the

Examiner's substantive bases for rejection of the claims. The Examiner has stated that it would have been obvious to one of ordinary skill in the art to normalize addresses by using address-normalization software. Because Claims 15, 25 and 31 each depend from independent Claim 1, 16 or 26, respective, and because Claims 1, 16 and 26 are now believed to be allowable, Applicants respectfully request that the Examiner's rejection of Claims 15, 25 and 31 be withdrawn as well.

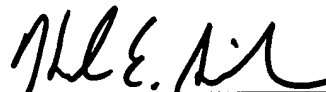
In view of the foregoing, Applicants respectfully submit that the Examiner's rejections of the claims are traversed, and that the claims, as amended, are now allowable. Reconsideration and withdrawal of these rejections toward ultimate allowance of the application, as a whole, is requested.

Following these amendments, no new independent and only one dependent claim has been added.

Should anything further be required, a telephone call to the undersigned, at (312) 456-8400, is respectfully invited.

Respectfully submitted,

GREENBERG TRAURIG



Howard E. Silverman
One of Attorneys for Applicant

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Version of Amendment With Markings to Show Changes Made

IN THE CLAIMS AMEND:

(Once Amended)

9. The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1[2], wherein [each of said] steps (g) [and (i)] comprises downloading the order directly into the computer system of the selected store via at least one of the: The Internet, and direct modem-to-modem connection via the PSTN.

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Howard E. Silverman